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SIPDIS

FROM USMISSION UNESCO PARIS

SENSITIVE

STATE FOR IO, IO/T, EUR/ECA, L/EUR, L/UNA

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TAGS: [SCUL](#) [ETRD](#) [UNESCO](#)

SUBJECT: USUNESCO: OUTCOME OF EXECUTIVE BOARD DECISION ON EUROPEAN COMMISSION PARTICIPATION IN CULTURAL DIVERSITY NEGOTIATIONS

REF: PARIS 02231 (NOTAL)

1. (SBU) Summary: The EU continues to focus on UNESCO as a place to enhance its influence in United Nations organizations. Following the rebuff last fall of the EU's attempts to gain a seat at the table during ongoing negotiations on a cultural diversity convention, the EU was back at it during UNESCO's most recent Executive Board meeting which ended April 29. While the final draft resolution gave the EU much less than they wanted, they still succeeded in gaining more than they had before. The resolution says that the EC "while maintaining its observer status" will remain seated at the back of the hall with other observers during the next round of negotiations (May 23-June 4) but will not be subject to the same rules observers must follow on when and how much they can address the meeting. End Summary.

2. (SBU) Negotiations on the Draft Convention on the Protection of the Diversity of Cultural Contents and Artistic Expressions (also known as the cultural diversity convention) began in the fall of 2004. A second round of talks was held in February and there will be another later this month.

3. (SBU) During last fall's meeting of UNESCO's biannual Executive Board, European Union members on the board submitted a draft resolution seeking enhanced observer status at future negotiations. Claiming that EU member states had transferred competency in several areas-trade, free movement of people, and intellectual property rights-to the European Community, they asserted a need for a seat at the table. The EU members had not done their homework and ended up withdrawing the resolution in the face of a maelstrom of negative reactions.

4. (SBU) As a result of the resolution's failure to pass, European Commission representatives were "embedded" in the delegation of the EU presidency (Luxembourg) during the February round of negotiations. Most member states felt that this approach worked well; the EC was able to present its positions without a problem.

5. (SBU) Since the beginning of this year, the EU member states on the Board have again been pushing the participation issue strongly. They prepared another draft resolution for the spring Executive Board and began intense lobbying of national delegations at UNESCO and in capitals. We cited one example of their efforts reftel where the Jamaican ambassador received new instructions to support the EU after lobbying in her capital.

6. (SBU) The Executive Board's Special Committee was the first to look at the EU's draft resolution. When the Committee was unable to reach consensus, it referred the matter to a working group headed by the Indian ambassador to UNESCO. The Indian Ambassador, working with Uruguay and Brazil, came up with a chairman's text. Despite the lack of consensus on this text, it was referred to the plenary and was readily embraced by EU states that substituted it as a new version of their draft resolution. The operant language of this text states that "the European Community, while maintaining its observer status, may actively participate in the same manner as full participants in the work of the Intergovernmental Meeting of Experts, excluding the right to vote."

7. (SBU) With sentiment seeming to coalesce around this version and the likelihood that the EU would prevail in a vote, the US delegation, assisted by US Mission Geneva Legal Advisor Michael Peay, engaged in last-minute negotiations with the EU. The operant language of the final version of the resolution (cleared by IO and EUR) reads: (para 3)(The Executive Board) invites, on an exceptional basis, the European Community, while maintaining its observer status, to participate actively and as fully as appropriate in the work of the Intergovernmental Meeting of Experts (May 25 - 4 June 2005).

(para 4) Recommends that the General Conference, at its 33rd session, take this decision into account with respect to its consideration of the item related to the Preliminary Draft Convention on the Protection of the Diversity of Cultural Contents and Artistic Expressions.

18. (SBU) This version was introduced to the plenary by the Indian ambassador as a consensus text. After adoption, the UK ambassador read a clarifying statement: (AK note-need to get proper language here)

"The Decision refers to active participation of the European Community as fully as appropriate.

The European Union considers that this active participation shall consist, within negotiation of the convention, of the ability to speak as other participants. Such active participation shall also consist of the ability to reply, to put forward proposals and amendments on issues for which it has competence at the formal meetings. It shall also include the ability to take part in the discussion of procedural issues within the context of the Draft Cultural Diversity Convention and the ability to take part in the committees, working groups, formal or informal meetings set up in the course of the work relating to negotiation of this Convention. The European Community shall have its own nameplate.

The European Community may not chair committees or sub-committees or serve as Rapporteur unless there is full consensus. The European Community shall not have the right vote nor break or block consensus.

Furthermore, European Community participation does not mean an additional voice. Indeed, the European Community decides in internal coordination whether the Presidency of the Council will speak on an issue on behalf of the Community and its member states. During this process, we have been open to providing further explanations concerning competences of the Community as regards the draft Convention whenever it speaks and we will continue to do so."

19. (SBU) The Australian Ambassador asked that the UK Ambassador's statement be put verbatim in the records of the meeting. The Russian Ambassador also asked for a clear articulation of EU competencies.

10.(SBU) Comment. Most delegations at UNESCO told us they were really pleased with the outcome. They dreaded a vote and many told us they hated being caught between the US and the EU. We repeatedly made the point that this was not about the US vs. the EU, that this was about broader principles of UNESCO and UN governance. We were disappointed that so few states were willing to confront the EU's egregious over reaching. Most of the responses to IO's demarche on this subject showed support in capitals for the US position, but that did not translate into support on the ground. We also were disappointed with the unwillingness of countries like Australia and Russia to address the issue until after the US delegation had finished with all the heavy lifting.

11. (SBU) Comment continued. While we avoided a vote that would have been a clear win for the EU, we are not entirely satisfied with the outcome. Though their participation remains heavily circumscribed, the EU gained more than they had going into the meeting, and no matter how many times they deny this will be a precedent, it will be a precedent.

12. (SBU) Comment continued. An interesting source of quiet support during this period has come from EU delegations that indicated they were so tired of EC bullying and over reach on this issue that they hoped the resolution would be voted down. The message came over as save us from ourselves. We were told that many EU members also did not want a vote and resisted a strong French push for a vote.

12. (SBU)Comment (continued). This will not be the last time the EU will come knocking on the door. We see this as one more in a series of attempts by the EU to gain the same rights as member states in UN organizations. UNESCO is a great place to start because so many delegations operate without instructions from their capital or (as in the case of Morocco) are free to operate as they wish. The language in the resolution about referring this matter to the General Conference in October will likely lead to a reprise of this debate when the issue of who can sign the cultural diversity convention will probably be raised. End comment.

OLIVER